

# CITY OF LODI

## COUNCIL COMMUNICATION

**AGENDA TITLE:** Request to Join in Amicus Brief to be filed by the City of San Francisco in the Supreme Court review of *Friends of Sierra Madre, et al. v. City of Sierra Madre et al.*

**MEETING DATE:** June 7, 2000

**PREPARED BY:** Deputy City Attorney

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**RECOMMENDATION:** The City join the Amicus Brief.

**BACKGROUND:** In *Sierra Madre*, the Second District Court of Appeal (Los Angeles) held that city council sponsored initiatives must undergo review under the California Environmental Quality Act (CEQA) before being submitted to the voters for approval. This despite that fact that the CEQA guidelines, 14 Cal. Code Regs. §§1500 et seq., expressly exclude the "submittal of proposals to a vote of the people of the state or a particular community" from CEQA review. The Appellate court held that the above quoted exception only applies to citizen (not council) sponsored initiatives.

If the Second District's decision stands it will severely undermine the ability of city councils to place counter initiatives on the ballot. Because citizen sponsored initiatives do not require CEQA review and because CEQA review often takes months, council could not float an initiative in time to meet and challenge an ill-conceived citizen sponsored initiative.


In addition, the ruling would call into question a number of projects that were approved by way of council sponsored initiatives without first undergoing CEQA review.

Finally, since many such initiatives fail, it makes little sense to require CEQA review of an initiative until the voters have approved one.

The San Francisco City Attorney's office will submit an amicus brief supporting the City of Sierra Madre's request that the Supreme Court overturn the Second District's decision on the above grounds and requests that we join in that brief. There is no cost to join the amicus brief.

**FUNDING:** Not applicable.

Respectfully submitted,

  
D. Stephen Schwabauer, Deputy City Attorney

APPROVED: \_\_\_\_\_  
H. Dixon Flynn -- City Manager